THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 7899 of 2002

Dt:30.08.2005

Between:

K.N.Prameela

.. Petitioner

and

The Government of A.P., and others

.. Respondents

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT PETITION NO : 7899 of 2002

ORDER: (per the Hon'ble Smt. Justice T. Meena Kumari)

At the request of the learned counsel on either side, the writ petition is taken up for final hearing and disposal at the interlocutory stage itself.

The petitioner is working as Statistical Assistant at the Directorate of Agriculture, Hyderabad. It is submitted that as per the A.P. State Subordinate Service Rules issued in G.O.Ms.No.937, F & A Dept., dated 01.04.1965, the post of Asst. Statistician may be filled in either by direct recruitment or

recruitment by transfer from the category of agriculture and statistical borne in the A.P. Agriculture Subordinate Service. The post of Statistical Assistant is Zonal post and hence there is no need to prepare Integrated Seniority List for promotion to the post of Asst. Statistician and accordingly the seniority list of Statistical Assistants has been prepared and communicated to all the employees, duly calling for objections, if any. But none of the Statistical Assistants have tendered their objections within the stipulated time. As such, the seniority list became final and the same was communicated to all the employees through proceedings, dated 06.05.1996.

While so, the third respondent filed O.A.No.7347 of 2000 before the A.P. Administrative Tribunal, Hyderabad (for short 'the Tribunal') seeking declaration to the effect that the action of the official respondents in not preparing the State-wise Integrated Seniority List for effecting promotions to the post of Assistant Statisticians and considering unqualified and ineligible candidates for further promotions by pick and choose method, as illegal and arbitrary. The case of the third respondent put forward before the Tribunal is that though he is eligible and qualified to be promoted to the post of Assistant Statistician, which is a state level cadre post, being filled from the Statistical Assistant working in different zones of the State by following the state-wide Integrated Seniority List of Statistical Assistant, the official respondents have not prepared any state-wise seniority list and as such deprived him of the promotion.

The Tribunal, after carefully analyzing the rival contentions advanced on behalf of both the parties, observed that though according to the third respondent, the declaration of probation of the petitioner should have been postponed till she passes the tests, "that issue cannot be gone into now, as it was not the prayer in the O.A. nor the official respondents had an opportunity to deny the same". It accordingly allowed the O.A. directing the official respondents to prepare Integrated Seniority List of Statistical Assistants of all the zones in the State, before effecting promotions, and after disposing of the objections regarding the date of regularization of the petitioner herein, as per the rules and instructions of the Government on the subject matters. Aggrieved thereby, the petitioner preferred this writ petition.

The learned counsel for the petitioner contends that the grievance of the

third respondent in the O.A. is limited to the extent of directing the official respondents to prepare an Integrated Seniority List. According to the learned counsel, the third respondent has not chosen to question the regularization of the petitioner, however, the Tribunal acted beyond its scope and directed the official respondents to prepare Integrated Seniority List of Statistical Assistants of all the zones, after disposing of the objections regarding the date of regularization of the petitioner.

The material available on record shows that the third respondent filed the O.A. seeking a direction to the official respondents to prepare the State-wise seniority list for effecting promotions to the post of Assistant Statisticians. The Tribunal on the one hand observed that the question of declaration of probation of the petitioner should have been postponed till she passes the tests, cannot be gone into, since it was not the prayer, and on the other allowed the O.A. directing the official respondents to prepare the Integrated Seniority List of Statistical Assistants of all the zones in the State, before effecting promotions and after disposing of the objections regarding the date of regularization of the petitioner, as per the rules and instructions. That observation itself goes to show that the Tribunal went a step further and acted beyond its scope.

In that view of the mater, the order in O.A.No.7347 of 2000 to the extent of directing the official respondents to dispose of the objections regarding the date of regularization of the petitioner herein as per the rules and instructions of the Government only is set aside. It is needless to say that the order with regard to the direction given to the official respondents to prepare the Integrated Seniority list of Statistical Assistants of all the Zones in the State, as per the rules and instructions, remains as it is.

Subject to the above said modification, the writ petition is allowed partly. There shall be no order as to costs.

(T. Meena Kumari.J)

(P. Lakshmana Reddy.J)

ksld

Dt.30.08.2005